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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): JP919990195 US 1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on April 3, 2006

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Application Number	Filed
09/713,929	11/16/2000

First Named Inventor: Tai

Art Unit	Examiner
2145	Tarim M. Hossain

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 30374
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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April 3, 2006
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [x] *Total of 1 forms are submitted.

Claims 1 and 6 stand rejected under 35 USC 103 as unpatentable over Kase in view of Karr and Claims 3-5, 8 and 9 stand rejected as unpatentable over Kase and Karr in view of Ho.

The present invention provides a novel apparatus and method for managing mobile agents wherein agent servers maintain the history of movements of mobile agents at their locations as well as a count of the accumulated total number of movements by each of the mobile servers for which the agent servers have a history. In addition, the agent servers generate requests for updating registration server locations and periodically communicate the requests to the registration server, wherein the requests include the history of movements with the accumulated counts. At the registration server, tables are updated for any given mobile agent using only the information that is accompanied by the highest count of accumulated movements, thereby avoiding updating with stale information.

The Examiner has cited the Kase patent as teaching a mobile agent management apparatus that maintains location information of mobile agents, citing Col. 19, lines 5-62. The Kase patent is directed to an agent system, defined by Kase as "one that performs processing such as information collections while moving on nodes configuring the network" (see: Col. 1, lines 22-24). Due to reliability concerns within a network, whereby "an area conceiving an evil intention may falsify the agent coming thereto and equip it with a harmful function such as a computer virus,

and may substitute the agent for a harmful agent" (Col. 19, lines 31-34), the Kase patent sequentially records the area to which an agent moves in a history which is stored in a reliability list storing section (Col. 19, lines 8-11). Then each area decides whether to accept an agent based on the history of areas where the agent has been and the reliability of those listed areas (Col. 19, lines 11-14). The Kase patent does not teach the claimed steps and means for each of a plurality of agent servers to maintain a history of movements including a counter for accumulating a count of the accumulated number of movements for each mobile agent. While Kase saves location information in the mobile agent's history, Kase does not teach or suggest the maintenance and use of a counter for accumulating a count of the accumulated number of movements for each mobile agent. Further, the Kase nodes do not keep histories/location information. The nodes only keep a list of reliable areas. Accordingly, Applicants believe that the Examiner erred in interpreting the teachings of Kase.

As acknowledged by the Examiner, the Kase patent does not teach the claimed request means or steps for requesting location update information. The Examiner has concluded that Karr's "outputting requested locations" of handsets and mobile agents from the Karr Abstract teaches "requesting location information". However, what Karr is teaching is that the server finds mobile devices in response to outside query requests and then outputs

the requested location information to the requesting entity, not that the server requests location information from mobile devices. In fact, Karr expressly teaches that the system "uses a plurality of MS locating technologies, including those based on (1) two-way TOA and TDOA; (1) pattern recognition; (3) distributed antenna provisioning; and (4) supplemental information from various types of very low cost non-infrastructure base stations" to locate mobile stations. Karr does not teach requesting location information or location update information from mobile devices. Rather, Karr focuses on obtaining location information using signal fingerprinting and other technologies that do not rely on an express request for information from a registration server. Applicants believe that the Examiner erred in interpreting the teachings of Karr.

Even if one did modify Kase with Karr, one would not arrive at the claimed invention since Karr teaches methods of locating devices without express requests for location information and neither reference teaches maintaining the count. The Examiner concluded that counting is well known; however, there is no teaching or motivation found in the references to include a counter. Clearly, therefore, the combination of teachings does not obviate the invention as claimed in Claims 1 and 6. To establish a *prima facie* case of obviousness, the prior art must teach or suggest all of the claim limitations. "All words in a claim must be considered in judging the patentability of that

claim against the prior art" (In re Wilson, 424 F. 2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). If the cited references fail to teach each and every one of the claim limitations, a *prima facie* case of obviousness has not been established by the Examiner. Since neither Kase nor Karr teaches means or steps for maintaining a history of movements which includes a counter for accumulating a count of the accumulated number of movements for each mobile agent, and since neither reference teaches steps or means for periodically generating requests for updating location information, it cannot be maintained that the combination of references obviates the invention as claimed.

With regard to Claims 3-4 and 8-9, the Examiner has cited the Ho patent for teaching a "movement threshold measurement" (Col. 5, lines 53-Col. 6, line 49). The Ho patent system tracks the movements of a mobile station to determine where the mobile station is in relation to places it can call/its paging area. Ho provides a movement counter MC for a mobile station; however, the MC does not record an absolute count of accumulated movements. For example, since a mobile station may perform so-called "loops", some of the movement path will be removed from the reporting (see: Col. 5, lines 21-41). Movement is tracked relative to cell locations/boundaries in the network and is not an accumulated count. Ho uses an "adaptive" movement counter and dynamic movement thresholds to track where the mobile station is, relative to other locations, while it is moving. As taught by Ho

in Col. 6, at lines 31-34, the "values of movement counter MC and call counter CC at mobile station 300 are reset every time a location update is performed" and the system may "return a new movement threshold" (Col. 6, lines 12-14). Applicants contend that the Ho patent does not teach or suggest a counter for maintaining an accumulated number of movements, since Ho changes the count based on loops, etc., therefore teaching away from the claims. Ho does not teach or suggest comparing the count to a predetermined threshold (Claims 3 and 8), since Ho changes the movement threshold, again teaching away. Finally, Ho does not teach or suggest generating a request for updating location information based on a comparison to a predetermined threshold or renewing location information based on updates (Claims 4, 5 and 9). Applicants conclude that the Examiner has erred in interpreting the teachings of the reference, and has not established a *prima facie* case of obviousness against the claims since the cited art does not teach or suggest each and every claim feature.

Applicants assert that the Examiner erred in interpreting the teachings of the cited Kase, Karr, and Ho references, erred in concluding that one skilled in the art would be motivated to include a feature which is neither taught nor suggested by the references, erred in applying references which teach away from the claims, and erred in not establishing a *prima facie* case of obviousness. Reconsideration is requested.

FAX

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Serial No: 09/713,929

Comments:

Notice of Appeal and Pre-Appeal Brief Request for Review
with supporting arguments attached